

1206

**DISPUTE RESOLUTION - OPERABLE UNIT 4
REMEDIAL INVESTIGATION REPORT**

02/13/91

**DOE-748-91
DOE-FMPC/USEPA
2
LETTER**



Department of Energy

FMPC Site Office
P.O. Box 398705
Cincinnati, Ohio 45239-8705
(513) 738-6319

1206

FEB 13 1991

DOE-748-91

Mr. William E. Muno
U. S. Environmental Protection Agency
Region V - 5HR-12
230 South Dearborn Street
Chicago, IL 60604

Dear Mr. Muno:

DISPUTE RESOLUTION - OPERABLE UNIT 4 REMEDIAL INVESTIGATION REPORT

- Reference:
- 1) Letter, M. E. Muno to G. W. Westerbeck, "Operable Unit 4 Dispute U. S. DOE - Fernald OH6 890 008 976," dated January 25, 1991
 - 2) Letter, M. E. Muno to G. W. Westerbeck, "Operable Unit #4 EPA RI Dispute U. S. DOE - Fernald OH6 890 008 976," dated January 30, 1991
 - 2) Letter, DOE-663-91, G. W. Westerbeck to W. E. Muno, "Operable Unit 4 - Dispute Resolution," dated January 28, 1991


Your January 25, 1991, and January 30, 1991 letters concerning the conclusion of the U. S. Environmental Protection Agency's dispute over the Remedial Investigation (RI) Report for Operable Unit #4 raise an issue of significant concern to the U. S. Department of Energy (DOE). The issue is of concern because both of your letters misstate the basis upon which DOE agreed to resolve EPA's dispute over the RI report.

The January 30, 1991 letter states that you do not oppose characterizing the RI report as "incomplete" rather than "inadequate" as long as DOE agrees that the RI report "did not comply with the requirements of the 1990 Consent Agreement and was rightfully disapproved by U. S. EPA." DOE did not agree at any time during the dispute resolution with the conclusion that DOE failed to comply with the Consent Agreement. DOE specifically objects to such a conclusion. DOE previously stated in the January 18, 1991 teleconference, in its comments on EPA's draft letter resolving this dispute, and in my January 28, 1991 letter, that it agrees that the RI report was incomplete because sampling had not been completed prior to submittal of the report. These statements may not be construed to mean that DOE agrees that it failed to comply with the Consent Agreement.

If you have any questions, please contact me at FTS 774-6319 or Jack Craig at FTS 774-6159.

Sincerely,

1206



Gerald W. Westerbeck
EMPC Site Manager

DP-84:Craig

cc:

R. P. Whitfield, EM-40, FORS
R. P. Berube, EH-20, FORS
J. J. Fiore, EM-42, GTN
K. A. Hayes, EM-422, GTN
J. La Grone, M-1, ORO
W. D. Adams, EW-90, ORO
P. J. Gross, SE-31, ORO
G. E. Mitchell, OEPA-Dayton
G. Ionannides, OEPA-Columbus
V. A. Adamkus, USEPA-V, 5A-14
C. A. McCord, USEPA-V, 5HR-12
D. A. Ullrich, USEPA-V, 5H-12
M. Butler, USEPA-V, 5CS-TUB-3
R. L. Glenn, Parsons
W. H. Britton, WMCO
S. W. Coyle, WMCO
S. M. Peterman, WMCO
J. D. Wood, ASI
F. Haywood, LWA

CC: ERA File
AR File